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8
9 UNITED STATES DISTRICT COURT
10 NORTHERN DISTRICT OF CALIFORNIA
11 SAN JOSE DIVISION

E-FILED - 1/5/06

12 UNITED STATES OF AMERICA,)
13)
14 Plaintiff,)
15 v.)
16 DAVID M. FISH,)
17 aka x000x, et al.,)
Defendants.)

No. CR 05-00445-RMW

**NOTICE OF RELATED CASE IN A
CRIMINAL ACTION AND
ORDER**

18 UNITED STATES OF AMERICA,)
19)
20 Plaintiff,)
21 v.)
22 MOISES NUNEZ,)
23 aka cartel, aka marvel, aka OTR,)
STEPHEN BROWN,)
24 aka blahz, aka sab,)
DESTON EVANS,)
25 aka hammer, aka 778889,)
OSCAR MARTINEZ,)
26 aka janeiro, aka xraided, aka sailorboy,)
PAUL ALEMAN)
27 aka panic, aka HEMi, aka panic_1,)
Defendants.)

No. CR 05-00734-JW

**NOTICE OF RELATED CASE IN A
CRIMINAL ACTION AND
ORDER**

NOTICE OF RELATED CASES IN A CRIMINAL ACTION

1 Criminal Local Rule 8-1 of the Local Rules of Practice of the United States District Court for
2 the Northern District of California, imposes a duty on any party to "promptly" notify the Court of
3 cases which may be related. The Government hereby gives notice pursuant to Criminal Local
4 Rule 8-1 that the above-captioned criminal cases are believed to be related since the "actions
5 concern one or more of the same defendants and the same alleged events, occurrences,
6 transactions or property." Criminal Local Rule 8-1(b)(1).

7 Based on the charges and other documents on file, each of these cases relates to the same
8 warez conspiracy. Conspiracy and copyright charges have been filed against all of the
9 defendants concerning their role in the warez conspiracy. A review of the two indictments
10 further shows that there is a substantial overlap in many of the conspiracy allegations. The cases
11 also relate to the same investigation.

12 To date, five defendants have been convicted before Judge Whyte in the original or related
13 cases.

14 Based on the foregoing, the Government believes that the two above-captioned cases concern
15 "the same alleged events, occurrences, transactions or property" within the meaning of Criminal
16 Local Rule 8-1(b)(1) and are therefore related to each other. As a result, the Government further
17 maintains that assignment to a single judge is likely to conserve judicial resources and promote
18 an efficient determination of the action. Accordingly, pursuant to Criminal Local Rule 8-1(e),
19 the Government requests that the five defendants charged in the Nunez case be assigned to the
20 judge assigned to the earliest-filed case, that is, Judge Ronald M. Whyte. For the convenience of
21 the Court, a proposed Order is submitted consistent with the regular practice of the Court and the
22 Local Rule that related cases are generally assigned to the judge to whom the first filed action
23 was assigned.

24 DATED: November 17, 2005

Respectfully Submitted,

25 KEVIN V. RYAN
26 United States Attorney

27 /s/
28 MARK L. KROTOSKI
Assistant United States Attorney

ORDER

For Good Cause shown,

Pursuant to Criminal Local Rule 8-1(e), the Court finds the case of United States v. David M. Fish et al., CR 05-00445-RMW, is related to United States v. Moises Nunez et al, CR 05-00734 JW. The actions concern one or more of the same alleged events, occurrences, transactions or property; and the actions appear likely to entail substantial duplication of labor if heard by different Judges or might create conflicts and unnecessary expenses if conducted before different Judges.

IT IS THEREFORE ORDERED that case number CR 05-00734 JW be reassigned to the Honorable Ronald M. Whyte. All captions in the reassigned case shall now appear as CR 05-00734 RMW.

SO ORDERED.

DATED: January 5, 2006

/s/ Ronald M. Whyte
RONALD M. WHYTE
United States District Judge